

from an earlier period they would have said so ; that I cannot bring myself to think they meant any such thing.

On the contrary, when settling for the first time and finally a very important principle, the Court would seem to have expressed themselves with less of precision and clearness than usually distinguishes their language if they did not mean that the mutation is complete, when the acts specified are done, and not until then, and that it could not be carried back to an earlier period by the doctrine of relation.

In truth, in my view of the relative equities of the heirs-at-law, and next of kin of parties who die before the mutation of the estate is complete, I see no foundation upon which the principle of relation can be placed. The doctrine of relation is founded upon a principle of equity, and is never admitted to prevail unless required to advance the purposes of equity. It is most frequently resorted to in cases of patents for land granted by the State, which when equity requires it, are permitted to relate back to the certificate so as to overreach prior grants, but this is never done, except when the holder of the prior certificate has a superior equity. *Peter's lessee vs. Mains*, 4 H. & McH., 423. But as between the heirs-at-law and next of kin, the superior equity cannot be with the latter. On the contrary, looking to the general policy of the law and the desire always manifested to permit the estate to descend in the line of the ancestor from whom it came, the inclination of the Court should be in favor of the heirs, as otherwise the benefit of the inheritance would most frequently be enjoyed by those who are alien to the ancestor's blood. This policy is strikingly displayed in the 9th section of the Act of 1816, ch. 154, which provides that upon the death of an infant whose lands are sold under that Act before arriving at lawful age or without issue, the proceeds of the sale or the stock in which the proceeds may be invested, shall be considered as real estate, and as such shall descend to those heirs or representatives who would be entitled to the lands in the same manner as if there had been no sale. Here it is seen that though the mutation is complete, the sale not only having been made and finally rati-